IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3618 OF 2005

Gunaji @ Raju Sakharam Tirlotkar ...Applicant
vs.
State of Maharashtra ...Respondent

Mr.M.K.Kocharekar for the Applicant
Mr.R.Y.Mirza, A.P.P. for State

AND
CRIMINAL APPLICATION NO.3345 OF 2005

Smt.Bharati S. Kabra ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr.M.K.Kocharekar with Mr. Ganesh Gole for the Applicant
Mr.R.Y.Mirza, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JUNE 21,2005.

P.C.:

1. These Applications for regular bail arise out of the same offence and are therefore disposed of by a common order.

2. One Geeta N. Soni applied for bail in this Court relying upon a certificate purported to be issued by the Department of Cardio Vascular & Thoracic Surgery, Grant Medical College and Sir J.J.Group of Hospitals under the signature of Chief Resident. It was brought to the notice of this Court that the said certificate was not genuine. Therefore this Court while rejecting the bail application of the said Geeta N. Soni by order dated 21st December 2004 directed the Investigating Officer to register appropriate offence in relation to the said fabricated certificate and proceed with the action.

3. Accordingly, F.I.R. was registered against the Applicants in the present Applications and others alleging commission of offences under Sections 198, 465, 466, 468, 471, 475 read with Section 34 of Indian Penal Code.

4. The learned Advocate appearing for the Applicant in Application No.3618 of 2005 submitted that the allegation against the Applicant is that he forged the signature of the concerned Doctor. He submitted that a specific allegation against the Applicant is that he acted at the instance of Dr.Shashikant D. Misra. He has placed on record a copy of Judgment and Order dated 30th May 2005 passed by the learned Additional Sessions Judge on application for bail filed by the said Dr.Misra. He pointed out that by the said order Dr.Misra was ordered to be enlarged on bail. He submitted that all the offences are triable by the Court of a Magistrate and therefore the prosecution will take a long time.

5. The Advocate appearing for the Applicant in the Application No.3345 of 2005 submitted that the Applicant is the aunt of the said Geeta Soni. He submitted that the investigation is completed. He submitted that the Applicant acted only with a view to help her niece for production of medical certificate. He has relied upon the averments made in paragraph No.4 of the Application regarding ill-health of the Applicant.

6. The learned A.P.P. pointed out that the allegations made against the Applicants are of very serious nature. The learned A.P.P. did not dispute that the case of the prosecution is that the Applicant in the Application No.3618 of 2005 acted at the instance of Dr.Misra. However, he submitted that it is the Applicant who has forged the signature of the concerned Doctor and the said allegation being of a serious nature, the Applicant cannot be ordered to be enlarged on bail. As regards other application the learned A.P.P. placed on record the medical report of the Applicant and on the basis of the said report he submitted that there is nothing wrong with the health of the Applicant.

7. I have considered the submissions. I have perused the order passed by the learned Additional Sessions Judge on the Application made by Dr.Shashikant D. Misra. The learned Additional Sessions Judge has quoted in the order a paragraph in the reply filed by the State for opposing the said Application. Even in the reply a contention is raised that the Applicant in the Application No.3618 of 2005 prepared the certificate at the instance of Dr.Misra and in fact the said Applicant received monetary consideration from Dr. Misra. During the investigation a statement of one Hausajirao Hadolikar has been recorded by the prosecution. He has stated that at the instance of Dr.Misra he filled in the printed form of the certificate and at that time in presence of Dr.Misra the Applicant wrote the bracketed portion on the certificate

and made a signature of Dr.Vinod Shetkar.

8. In so far as the Applicant in Application No.3345 of 2005 is concerned, the allegation against her is that she procured the certificate in conspiracy with the said Geeta and others. The medical report submitted by the learned A.P.P. does not show anything seriously wrong with the health of the Applicant.

9. If Dr.Misra is enlarged on bail there is no reason to keep the Applicants in these Applications in custody. The Applicant in Application No.3618 of 2005 has acted at the instance of Dr.Misra which is the stand taken by the the prosecution. As far as the other Applicant is concerned, she is a woman who is detained from 3rd March 2005. The Applicant in Application No.3618 of 2005 was arrested on 4th March 2005. The offences are triable by the Court of Magistrate and the maximum punishment is seven years. Admittedly, investigation is completed and the both the Applicants have been remanded to judicial custody. The F.I.R. discloses that Section 467 of I.P.C. is not applied. The learned A.P.P. at this stage stated that even Section 467 is applied where the punishment is for life. It appears that this case was made out before the learned Additional Sessions Judge when the Application filed by Dr.Misra was decided. However, the learned Additional Sessions Judge has enlarged Dr.Misra on bail.

10. Considering the facts and circumstances of the case and the order passed on the Application made by Dr.Misra, a case is made out for enlarging the Applicants on bail.

11. Hence I pass the following order :

i) The Applicants in Criminal Application Nos.3618 of 2005 and 3345 of 2005 shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.15,000/- (Rupees fifteen thousand only) each with one or two local sureties in the like amount.

ii) The Bail is granted subject to the condition that the Applicants will attend the concerned Court on various dates fixed in the case.

iii) Bail is granted subject to further condition that if the trial is delayed on account of default on the part of the Applicants the same may be a ground for cancellation of bail.

iv) The Applicants will not attempt, either directly or indirectly, to influence or pressurise the prosecution witnesses in any manner and will not tamper with the prosecution evidence.

. Parties to act upon the authenticated copy of this order.

JUDGE